

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

JANE DOE,)
)
Plaintiff,)
)
v.) **No. 3:07-CV-3**
)
CLAIBORNE COUNTY, et al.,) **(Phillips)**
)
Defendants.)
)

MEMORANDUM AND ORDER

This matter is before the court on plaintiffs' motion to lift the stay in this case and to set the case for trial [Doc. 13]. In support of the motion, plaintiffs state that on March 22, 2007, this court entered an order staying this civil action pending the outcome of the related criminal case. On August 13, 2008, the criminal proceedings against defendant David Ray were concluded when Ray was placed on pretrial diversion for a period of two years. Therefore, plaintiffs move the court to lift the stay and set this case for trial.

Defendants have responded in opposition, stating that the criminal proceedings in state court have not concluded, but have been "suspended" during the period of pretrial diversion. Defendants state that this case can still be brought to trial if the pretrial diversion is terminated. In addition, in the criminal case, Judge Dugger stated that the "gag order" imposed upon counsel remained in effect during the period of pretrial

diversion. Therefore, defendants state that if this court lifted the stay, the impact of the state court's "gag order" would be prejudicial to the defendants.

The court does not believe that the state court "gag" order continues during the period of pretrial diversion, therefore, the court will grant plaintiff's motion and lift the stay at this time. Moreover, the court is of the opinion that mediation will facilitate a possible resolution in this case. Pursuant to LR 16.4, it is hereby **ORDERED** that the parties enter into mediation. The parties shall notify the court within **thirty (30)** days from the date of this order of the identity of the mediator who will conduct the mediation and the date, time and place for the mediation. It is **FURTHER ORDERED** that the parties, their representatives and/or actual decisionmakers for the parties, including persons with actual settlement authority on behalf of all the parties to this litigation, shall be present for the mediation, which should be completed within **six (6) months**. The parties shall promptly notify the court of the results of the mediation.

IT IS SO ORDERED.

ENTER:

s/ Thomas W. Phillips

United States District Judge